



HUMAN RIGHTS COMMISSION OF SIERRA LEONE

REPORT OF THE MONITORING OF PROCEEDINGS OF THE SUPREME COURT ON THE PROPORTIONAL REPRESENTATION MATTER

Pursuant to Section 7 subsection 2(f) of the Human Rights Commission of Sierra Act, 2004 which stipulates a function to monitor and document human rights violations, and Section 9(1) which guarantees unhindered access to all government facilities in order to monitor human rights matters in the country, the Human Rights Commission of Sierra Leone (HRCSL) on Monday 9th January, 2023, monitored proceedings at the Supreme Court at Siaka Stevens Street in Freetown, in relation to the Proportional Representation (PR) matter.

Background

By a Public Notice dated 11th March, 2022 and pursuant to Sections 57 and 103 of the Public Elections Act, 2012, the President of the Republic of Sierra Leone, Retired Brigadier Dr. Julius Maada Bio appointed 24th June 2023 for the elections of Ordinary Members of Parliament and Local Council elections. The Chief Electoral Commissioner in turn and pursuant to Section 43 of the same Act announced that the Election to the Office of the President is 24th day of June 2023.

By a Press Statement dated 21st October, 2022, the Electoral Commission for Sierra Leone (ECSL), formerly the National Electoral Commission, informed the public that the 2023 multi-tier elections will be conducted using the PR System following consultations with the President who subsequently directed that the said multi-tier elections be conducted by the District Block and Proportional Representation (PR) System pursuant to Section 38(A) of the Constitution of Sierra Leone, 1991 as amended in 2001.

By an Originating Notice of Motion dated 28th November, 2022 Honorable Abdul Kargbo and Councillor Hakiratu Maxwell-Caulker (the Plaintiffs) filed an Application at the Supreme Court (which handles all Constitutional matters) challenging the directive given to ECSL by the President to conduct the elections for ordinary Members of Parliament (MPs) through a District Block System (PR System) as ultra vires the Constitution (i.e. above stipulated powers) and requesting the Court to order ECSL to hold the 2023 elections for MPs using the constituency based system among other reliefs sought. The Respondents were the Attorney-General & Minister of Justice (AGMOJ) and the ECSL. Both the AGMOJ and ECSL filed their Statements of case in December 2022 and the matter was set down for hearing on the 9th January 2022.

Hearing

The presiding panel comprised of five (5) Justices; these were Chief Justice Desmond Babatunde Edwards, who presided; Justice Browne-Marke, JSC; Justice Alusine Sesay, JSC; Justice Deen Tarawallie, JA; and Justice Ivan Sesay, JA.



Lawyers representing the Plaintiffs included: Dr. Abdulai O. Conteh Esq., Joseph Fitzgerald Kamara Esq., and Ady Macauley Esq. Those representing the Defendants were: Mohamed Lamin Tarawallie, the AGMOJ; Robert Kowa, the Solicitor-General; and Umaru Koroma, the Deputy Minister of Justice. Dr. Emmanuel Saffa Abdulai Esq. represented the ECSL.

FINDINGS

From the monitoring of the proceedings of 9th January 2023, HRCSL hereby presents the following findings:

1. The Plaintiffs aggrieved with the decision to conduct elections for members of Parliament using the PR System decided to approach the Court and not to take the laws into their hands.
2. For the first time in a long time this was a one-day proceedings, enabling the Plaintiffs to enjoy the right to speedy trial .
3. The proceedings was streamed live by the Judiciary on its social media platforms and aired live on the Public Broadcaster and on AYV TV. This enabled Sierra Leoneans home and abroad and other members of the public access to follow the proceedings.
4. All parties were accorded equal opportunity and made oral submissions.
5. There was hardly any restriction to access the public gallery of the Supreme Court by members of the public to witness the proceedings in person.
6. At the end of the hearing, the file was withdrawn for judgment. The Chief Justice assured the lawyers that a date for the reading of the judgment will be communicated to them as soon as the same is ready within a reasonable time.

RECOMMENDATIONS

1. Citizens should use lawful means to address their grievances, rather than take the laws into their hands.
2. The Supreme Court should deliver the Judgment in this matter within the shortest time possible as the conduct of the general elections hinges on the outcome of the case. Further, citizens' trust in the Judiciary will continue to grow if they can rely on their matters being heard within a reasonable time frame.
3. That the Judiciary continues to increase access to justice and ensure that public interest litigations in particular are aired and/or streamed live.
4. That Judgments are handed down within a reasonable period of time or in accordance with the provisions of the Constitution.

HRCSL commends the Chief Justice and his entire team at the Judiciary for expediting trial and access to justice on this matter, noting that as some of the major recommendations of the Universal Periodic Review (UPR) which the Government of Sierra Leone accepted and committed to take steps to implement them. bordered on ensuring speedy trial and improving access to justice.



For any enquiries, please contact **the Directorate of Monitoring & Research**

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